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1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK  
3 -----x

4 UNITED STATES OF AMERICA,

5 v.

18 Cr. 850 (ALC)

6 MICHAEL COHEN,

7 Defendant.

Plea

8 -----x  
9  
10 New York, N.Y.  
11 November 29 , 2018  
12 9:00 a.m.

13 Before:

14 HON. ANDREW L. CARTER, JR.,

15 District Judge

16 APPEARANCES

17 GEOFFREY S. BERMAN

18 United States Attorney for the  
19 Southern District of New York

20 BY: L. RUSH ATKINSON

21 JEANNIE S. RHEE

22 ANDREW D. GOLDSTEIN

23 Assistant United States Attorneys

24 PETRILLO KLEIN & BOXER

25 Attorneys for Defendant

BY: GUY PETRILLO

AMY LESTER

Also Present:

Michelle Taylor, FBI

Jonathan Lettieri, U.S. Pretrial Services

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1                   THE DEPUTY CLERK: Change of plea hearing, United  
2 States v. Michael Cohen.

3                   Counsel, please state your appearance.

4                   For the government?

5                   MR. ATKINSON: Good morning, your Honor. Rush  
6 Atkinson, on behalf of the United States. With me is my  
7 colleague Jeannie Rhee and my colleague Andrew Goldstein from  
8 the Special Counsel's office, and we are joined by Special  
9 Agent Michelle Taylor from the FBI.

10                  THE COURT: And for the defendant?

11                  MR. PETRILLO: For defendant Michael Cohen, Guy  
12 Petrillo and Amy Lester.

13                  Good morning, your Honor.

14                  THE COURT: Good morning.

15                  THE DEPUTY CLERK: For pretrial services?

16                  MR. LETTIERI: Good morning, your Honor, Jonathan  
17 Littieri. I am here on behalf of Pretrial Services.

18                  THE COURT: Good morning.

19                  My understanding is that Mr. Cohen would like to waive  
20 indictment and then plead guilty to an information pursuant to  
21 an agreement with the government.

22                  Is that correct?

23                  MR. PETRILLO: That's correct, your Honor.

24                  THE COURT: OK.

25                  MR. PETRILLO: Just as a matter of procedure, your

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1 Honor, if I may, Mr. Cohen has not been arraigned on the  
2 information.

3 THE COURT: Correct.

4 MR. PETRILLO: So, pursuant to what is often done in  
5 the courthouse, post that arraignment, we would initially plead  
6 not guilty.

7 THE COURT: The Court will enter a plea of not guilty  
8 on his behalf immediately following the arraignment, and then  
9 we'll go through the plea allocution.

10 MR. PETRILLO: Thank you, your Honor.

11 THE COURT: I am going to ask you some questions,  
12 Mr. Cohen. I am going to require that your answers be under  
13 oath so I will ask my wonderful and talented deputy to  
14 administer an oath.

15 (Defendant sworn)

16 THE COURT: Please state your full name.

17 THE DEFENDANT: Michael Dean Cohen.

18 THE COURT: How old are you?

19 THE DEFENDANT: 52.

20 THE COURT: How far did you go this school.

21 THE DEFENDANT: J.D. degree.

22 THE COURT: Are you currently or have you recently  
23 been under the care of a physician?

24 THE DEFENDANT: No, sir.

25 THE COURT: Have you recently seen a psychiatrist or a

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1 psychologist or had any sort of mental health counseling?

2 THE DEFENDANT: No, your Honor.

3 THE COURT: Have you ever been treated for any  
4 psychiatric condition?

5 THE DEFENDANT: No, sir.

6 THE COURT: Have you ever been hospitalized for drug  
7 abuse or alcohol abuse?

8 THE DEFENDANT: No, sir.

9 THE COURT: In the last 24 hours, have you had any  
10 drugs, medicine, pills or alcoholic beverages of any kind?

11 THE DEFENDANT: Are we talking about prescription  
12 medication, or are we talking about nonprescription?

13 THE COURT: Any medication.

14 THE DEFENDANT: Yes.

15 THE COURT: OK. What?

16 THE DEFENDANT: Crestor.

17 THE COURT: Other than that, have you had any other  
18 medication in the last 24 hours?

19 THE DEFENDANT: Yes, your Honor.

20 THE COURT: What is that?

21 THE DEFENDANT: Do I need to do it in open court, sir?

22 THE COURT: OK. Let me ask you this: Are there  
23 prescription medications that you are taking?

24 THE DEFENDANT: Yes.

25 THE COURT: And these prescription medications that

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1 you have been taking, how many medications are we talking  
2 about?

3 THE DEFENDANT: Three.

4 THE COURT: You've mentioned one, I believe. The  
5 other two, how long have you been taking -- or all of these  
6 prescription medications, how long have you been taking them?

7 THE DEFENDANT: Many years, Your honor.

8 THE COURT: Do you take these medications daily?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Do these medications affect your ability  
11 to understand what's happening here?

12 THE DEFENDANT: No, your Honor.

13 THE COURT: Have you taken the medications today?

14 THE DEFENDANT: Yes, your Honor.

15 THE COURT: All right. Does defense counsel have any  
16 doubts about your client's competence to proceed?

17 MR. PETRILLO: I do not, your Honor.

18 THE COURT: Counsel for the government?

19 MR. ATKINSON: No, your Honor.

20 THE COURT: I find that Mr. Cohen appears alert; he's  
21 answered the questions appropriately. I find that he's  
22 competent to proceed, and we will continue.

23 Also, let me tell you, Mr. Cohen, you have a right to  
24 be represented by an attorney. If you could not afford to hire  
25 your own attorney, the Court would give you a lawyer for free.

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1                   Do you understand?

2                   THE DEFENDANT: Yes, sir.

3                   THE COURT: Also, anything you say here can be used  
4 against you in a court of law except what you say in private to  
5 your attorneys.

6                   Do you understand?

7                   THE DEFENDANT: Yes, your Honor.

8                   THE COURT: Have you been furnished with a copy of the  
9 information that's been filed against you?

10                  THE DEFENDANT: Yes, sir.

11                  THE COURT: Have you reviewed that with your  
12 attorneys?

13                  THE DEFENDANT: I have.

14                  THE COURT: Counsel for the defense, is that correct?  
15 Have you reviewed the information with your client?

16                  MR. PETRILLO: We have, your Honor.

17                  THE COURT: Do you feel he understands the nature of  
18 the charge contained in the information?

19                  MR. PETRILLO: I do, your Honor.

20                  THE COURT: All right. I am not going to read the  
21 entire information, but, Mr. Cohen, I want to make sure you  
22 understand that you are being charged with a felony offense.

23                  Do you understand, sir?

24                  THE DEFENDANT: I do, sir.

25                  THE COURT: The sole count of the information charges

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1 false statements.

2 It states, "On or about August 28, 2017, the defendant  
3 Michael Cohen, in the District of Columbia and elsewhere, in a  
4 matter within the jurisdiction of the legislative branch of the  
5 Government of the United States, knowingly and willfully made a  
6 materially false, fictitious, and fraudulent statement and  
7 representation, to wit, Cohen caused to be submitted a written  
8 statement to SSCI containing materially false statements about  
9 the Moscow Project, including false statements about the timing  
10 of the Moscow Project, discussions with people in the Company  
11 and in Russia about the Moscow Project, and contemplated travel  
12 to Russia in connection with the Moscow Project," in violation  
13 of Title 18, United States Code, Section 1001(a)(2).

14 Do you understand the nature of that charge,  
15 Mr. Cohen?

16 THE DEFENDANT: I do, your Honor.

17 THE COURT: All right.

18 MR. PETRILLO: As to other portions of the document,  
19 your Honor, we waive the public reading.

20 THE COURT: OK.

21 Mr. Cohen, you have a right to be charged by way of an  
22 indictment.

23 Do you understand?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Again, you have a constitutional right to

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1 be charged by an indictment of the grand jury, but you can  
2 waive that right and consent to being charged by information.

3 Do you understand?

4 THE DEFENDANT: I do, your Honor.

5 THE COURT: Instead of an indictment this felony  
6 charge against you has been brought by the filing of an  
7 information. Unless you waive indictment, you may not be  
8 charged with a felony unless a grand jury finds by return of an  
9 indictment that there is probable cause to believe that a crime  
10 has been committed and that you have committed it.

11 Do you understand?

12 THE DEFENDANT: I do, sir.

13 THE COURT: If you do not waive indictment, the  
14 government may present the case to a grand jury and ask it to  
15 indict you. The grand jury is composed of at least 16 and not  
16 more than 23 persons, and at least 12 grand jurors must find  
17 that there is probable cause to believe you committed the crime  
18 with which you are charged before you may be indicted. The  
19 grand jury might or might not indict you.

20 If you waive indictment by the grand jury, the case  
21 will proceed against you on the information just as though you  
22 had been indicted.

23 Do you understand?

24 THE DEFENDANT: I do, your Honor.

25 THE COURT: Have you discussed waiving your right to

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1 indictment by the grand jury with your attorneys?

2 THE DEFENDANT: I have, sir.

3 THE COURT: Do you understand your right to indictment  
4 by a grand jury?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Have any threats or promises been made to  
7 induce you to waive indictment?

8 THE DEFENDANT: No, sir.

9 THE COURT: Do you wish to waive your right to  
10 indictment by a grand jury?

11 THE DEFENDANT: I do, your Honor.

12 THE COURT: Defense counsel, is there any reason why  
13 your client should not waive indictment?

14 MR. PETRILLO: No, your Honor.

15 THE COURT: I have before me a form entitled "Waiver  
16 of Indictment," which appears to bear your signature.

17 Is that your signature on that document, Mr. Cohen?

18 THE DEFENDANT: Yes, your Honor.

19 THE COURT: Before signing it, did you read it?

20 THE DEFENDANT: I did, sir.

21 THE COURT: Did you discuss it with your attorneys?

22 THE DEFENDANT: I did, your Honor.

23 THE COURT: Did you sign that document because you  
24 wish to waive your right to indictment?

25 THE DEFENDANT: Yes, sir.

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1                   THE COURT: I find that the waiver of indictment is  
2 knowingly and voluntarily made, and I accept it. I will enter  
3 an order and finding to that effect.

4                   Let's proceed to arraignment on the information.

5                   Again, Mr. Cohen, you've indicated that you've read  
6 the information, discussed it with your attorneys and  
7 understand the nature of the charge against you, correct?

8                   THE DEFENDANT: Correct, your Honor.

9                   THE COURT: I understand that you wish to plead guilty  
10 to Count One of the information, but before I can allow you to  
11 plead guilty, I have to ask you some questions to make sure you  
12 understand all the rights you will be giving up in order to  
13 plead guilty. So at this point the Court will enter on your  
14 behalf a plea of not guilty.

15                   All right?

16                   THE DEFENDANT: Understood, your Honor.

17                   THE COURT: Mr. Cohen, you have a constitutional right  
18 to continue to plead not guilty.

19                   Do you understand?

20                   THE DEFENDANT: I do, your Honor.

21                   THE COURT: If you persist in that right, you have a  
22 right to a speedy and public trial by jury.

23                   Do you understand?

24                   THE DEFENDANT: Yes, sir.

25                   THE COURT: At that trial you would be presumed

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1 innocent. You do not have to prove that you are innocent. Do  
2 you understand?

3 THE DEFENDANT: I do, your Honor.

4 THE COURT: The burden of proof would be on the  
5 government at all times, and they would have to prove each and  
6 every element of the crime charged beyond a reasonable doubt.

7 Do you understand?

8 THE DEFENDANT: I am aware of that, your Honor.

9 THE COURT: At that speedy and public trial, you would  
10 have the right to be represented by an attorney.

11 Do you understand?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: If you could not afford to hire an  
14 attorney, the Court would give you an attorney for free.

15 Do you understand?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: And you have the right to be represented  
18 by an attorney at every stage of this criminal litigation.

19 Do you understand?

20 THE DEFENDANT: I do, your Honor.

21 THE COURT: Again, if you could not afford to hire  
22 your own attorney, the Court would give you an attorney for  
23 free.

24 Do you understand?

25 THE DEFENDANT: I do, your Honor.

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1                   THE COURT: Counsel, are you retained or appointed on  
2 this matter?

3                   MR. PETRILLO: Retained, your Honor.

4                   THE COURT: Again, the government would have to prove  
5 each and every element of the crime charged beyond a reasonable  
6 doubt in order for you to be convicted of this crime.

7                   So let's talk about those elements.

8                   The government would have to prove that you made a  
9 statement or representation.

10                  Do you understand?

11                  THE DEFENDANT: I do, sir.

12                  THE COURT: Then government would have to prove that  
13 the statement or representation was material.

14                  Do you understand?

15                  THE DEFENDANT: Yes, sir.

16                  THE COURT: Next, the government would have to prove  
17 that the statement or representation that was made was false,  
18 fictitious, or fraudulent.

19                  Do you understand?

20                  THE DEFENDANT: Yes, sir.

21                  THE COURT: The government would also have to prove  
22 that the false, fictitious, or fraudulent statement was made  
23 knowingly and willfully.

24                  Do you understand?

25                  THE DEFENDANT: Yes, your Honor.

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1                   THE COURT: And that the statement or representation  
2 was made in a matter within the jurisdiction of the government  
3 of the United States.

4                   Do you understand?

5                   THE DEFENDANT: Yes, sir.

6                   THE COURT: In addition to proving those elements, the  
7 government would be required to prove venue to a jury by a  
8 preponderance of the evidence. If you plead guilty, you will  
9 be waiving your right to challenge venue of the prosecution.

10                  Do you understand that?

11                  THE DEFENDANT: Yes, sir.

12                  THE COURT: What venue means is that the government  
13 needs to bring the case in the judicial district where the  
14 crime took place.

15                  Do you understand?

16                  THE DEFENDANT: Yes, sir.

17                  THE COURT: And if you plead guilty, you're waiving  
18 your right to challenge venue.

19                  Do you understand?

20                  THE DEFENDANT: I do, your Honor.

21                  THE COURT: Counsel for the government, have I left  
22 out any elements of the offense?

23                  MR. ATKINSON: Your Honor, just as it appears in the  
24 information, specifically, we would have to prove the defendant  
25 made the statement within the jurisdiction of the legislative

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1 branch of the United States.

2 THE COURT: OK.

3 Did you hear that, Mr. Cohen?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: OK. Yes. Let's be a little bit more  
6 specific here.

7 The government is alleging, again, that the statement  
8 was made on or about August 28, 2017.

9 Do you understand?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: And that this was in a matter within the  
12 jurisdiction of the legislative branch of the United States.

13 Do you understand?

14 THE DEFENDANT: I do, your Honor.

15 THE COURT: And the government would have to prove,  
16 again, that the statements that were made were false and that  
17 you knew that they were false and that these statements were  
18 material.

19 Do you understand?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: And at the time that you made these false  
22 material statements, you did so knowingly and willfully.

23 Do you understand?

24 THE DEFENDANT: I do, your Honor.

25 THE COURT: In particular, the government is charging

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2 that you caused to be submitted a written statement to SSCI  
3 containing material false statements about the Moscow Project,  
4 including false statements about the timing of the Moscow  
5 Project, discussions with people in the company and in Russia  
6 about the Moscow Project, and contemplated travel to Russia in  
connection with the Moscow Project.

7 Do you understand?

8 THE DEFENDANT: I do, your Honor.

9 THE COURT: Did I leave out any other elements of the  
10 offense for the government?

11 MR. ATKINSON: No, your Honor. Thank you.

12 THE COURT: From the defense?

13 MR. PETRILLO: No, your Honor.

14 THE COURT: So, again, the government would have to  
15 prove each and every one of those elements to a jury beyond a  
16 reasonable doubt.

17 Do you understand?

18 THE DEFENDANT: I do, your Honor.

19 THE COURT: In order to attempt to prove these  
20 elements beyond a reasonable doubt, the government would call  
21 witnesses. Your lawyer could question those witnesses.

22 Do you understand?

23 THE DEFENDANT: I do, sir.

24 THE COURT: You could call witnesses on your own  
25 behalf at trial.

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1                   Do you understand?

2                   THE DEFENDANT: I do, your Honor.

3                   THE COURT: And your lawyer would have the subpoena  
4 power of the United States to make witnesses come to Court for  
5 you.

6                   Do you understand?

7                   THE DEFENDANT: I do, sir.

8                   THE COURT: You would also have the right to testify  
9 in your own behalf at trial.

10                  Do you understand?

11                  THE DEFENDANT: I do.

12                  THE COURT: At the same time, you couldn't be forced  
13 to testify because you have a right or privilege against  
14 self-incrimination. What the right or privilege against  
15 self-incrimination means is that you cannot be required to say  
16 anything out of your own mouth that makes you appear guilty.

17                  Do you understand?

18                  THE DEFENDANT: I do, your Honor.

19                  THE COURT: So, even if you are guilty, you are not  
20 required to plead guilty. You could remain silent and force  
21 the government to attempt to prove each and every element of  
22 the crime charged beyond a reasonable doubt.

23                  Do you understand?

24                  THE DEFENDANT: I do, sir.

25                  THE COURT: If the government could not prove each and

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1 every element of the crime charged beyond a reasonable doubt,  
2 the jury would have an obligation to find you not guilty.

3 Do you understand?

4 THE DEFENDANT: I do, your Honor.

5 THE COURT: So, again, even if you are guilty, you are  
6 not required to plead guilty.

7 Do you understand?

8 THE DEFENDANT: Understood, your Honor.

9 THE COURT: If you plead guilty, I'll have to ask you  
10 what you did that makes you guilty of this crime. When you  
11 answer that question, you will be saying things out of your own  
12 mouth that make you appear guilty, thereby giving up your right  
13 or privilege against self-incrimination.

14 Do you understand?

15 THE DEFENDANT: I fully understand, your Honor.

16 THE COURT: At trial, your lawyer could object to  
17 evidence that the government sought to introduce against you.

18 Do you understand?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: I want to make sure you also understand  
21 that if you are not a United States citizen your guilty plea  
22 and conviction make it very likely that you would be deported  
23 from the United States.

24 Do you understand?

25 THE DEFENDANT: I do. I am a United States citizen,

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1 your Honor.

2 THE COURT: And have you discussed that with your  
3 attorneys?

4 THE DEFENDANT: I have.

5 THE COURT: Let's talk about the sentencing process.

6 If I accept your plea of guilty, you will meet with  
7 the probation department, and they will prepare a presentence  
8 report.

9 Do you understand?

10 THE DEFENDANT: I do, your Honor.

11 THE COURT: That report will have information about  
12 you and the crime that you are alleged to have committed.

13 Do you understand?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: That report will also have the probation  
16 department's sentencing guideline calculation.

17 Do you understand?

18 THE DEFENDANT: I do, sir.

19 THE COURT: Have you and your attorneys discussed the  
20 sentencing guidelines and how they might apply in your case?

21 THE DEFENDANT: Yes, your Honor.

22 THE COURT: The sentencing guidelines are advisory.

23 What that means is, although the sentencing judge is  
24 required to determine the guideline range that applies to your  
25 case, once he or she makes that determination, they are not

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1 required to sentence you within range.

2 Do you understand?

3 THE DEFENDANT: I do, your Honor.

4 THE COURT: The sentencing judge will determine the  
5 guideline range that applies to your case, and the sentencing  
6 judge will determine the sentence in your case.

7 Do you understand?

8 THE DEFENDANT: Yes, your Honor.

9 THE COURT: So, as you sit here today, there is no  
10 promise as to what your guideline range will be, nor is there a  
11 promise as to what your sentence will be.

12 Do you understand?

13 THE DEFENDANT: I understand that, your Honor.

14 THE COURT: If the sentence imposed is different than  
15 that you are hoping for, that will not be a ground for you  
16 to take your plea back.

17 Do you understand?

18 THE DEFENDANT: I do, your Honor.

19 THE COURT: If the guideline range determined is  
20 different from what you are hoping for, that will not be a  
21 ground for you to take your plea back.

22 Do you understand?

23 THE DEFENDANT: I do, your Honor.

24 THE COURT: Let's talk about your agreement with the  
25 government.

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1           This nine-page document appears to have your signature  
2 on it as well as the signatures of one of your attorneys.

3           Is that, in fact, your signature?

4           THE DEFENDANT: Yes, your Honor.

5           THE COURT: Before you signed that document, did you  
6 read it?

7           THE DEFENDANT: I did, sir.

8           THE COURT: Did you discuss it with your attorneys?

9           THE DEFENDANT: I did.

10          THE COURT: Do you understand it?

11          THE DEFENDANT: I fully understand it, your Honor.

12          THE COURT: And does this document contain the  
13 entirety of your agreement with the government?

14          THE DEFENDANT: Yes, your Honor.

15          MR. PETRILLO: There is one exception to that, your  
16 Honor, one addition. There is a letter agreement that the  
17 defense has reached with the Southern District of New York  
18 which supplements the plea agreement, which I can hand up at  
19 this time.

20          THE COURT: OK.

21          MR. PETRILLO: What this letter indicates is that the  
22 Southern District of New York will join the Special Counsel's  
23 office in presenting to the sentencing judge the cooperation  
24 that Mr. Cohen has provided to date as a factor to be  
25 considered under 3553(a). It is a two-page letter. It's

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1 perhaps before your Honor already, but if it's not, I can hand  
2 it up.

3 THE COURT: I don't believe I have that letter, but  
4 there's certainly mention of that in the agreement. I think  
5 that's sort of subsumed within the agreement, but let me hear  
6 from the government.

7 Any thoughts on that?

8 MR. ATKINSON: Your Honor, we defer to you as to  
9 whether you would like to make it formally part of the record,  
10 but we do point out that section 12, page 8, of this agreement  
11 makes reference to that letter. Of course, the Special  
12 Counsel's office is not a party to that letter, and that's why  
13 it is not part of this agreement.

14 THE COURT: I don't think we need to make that an  
15 official part of this document at this time.

16 MR. PETRILLO: Very well.

17 THE COURT: Are there any other agreements other than  
18 what's contained in this agreement, Mr. Cohen?

19 THE DEFENDANT: No, your Honor.

20 THE COURT: And is that correct, counsel for the  
21 government and the defense?

22 MR. ATKINSON: That's correct, your Honor, with the  
23 exception of the letter between defendant and the Southern  
24 District of New York U.S. Attorneys' Office.

25 MR. PETRILLO: Correct.

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1                   THE COURT: As well as any other agreements that are  
2 specifically mentioned in this document?

3                   MR. ATKINSON: Correct, Judge. There's no other  
4 agreements.

5                   MR. PETRILLO: Correct. Thank you, your Honor.

6                   THE COURT: All right.

7                   I'm not going to go over the entirety of agreement,  
8 but let's talk about the statutory penalties, and then we'll go  
9 over a couple of portions of the agreement.

10                  The sole count of the information carries a maximum  
11 sentence of five years' imprisonment.

12                  Do you understand?

13                  THE DEFENDANT: Yes, your Honor.

14                  THE COURT: The possibility of a fine, which would be  
15 based on your ability to pay it, of not more than \$250,000.

16                  Do you understand?

17                  THE DEFENDANT: Yes, your Honor.

18                  THE COURT: A term of supervised release of not more  
19 than three years.

20                  Do you understand?

21                  THE DEFENDANT: Yes, your Honor.

22                  THE COURT: Supervised release is like a term of  
23 probation you would serve after a term of custody. You would  
24 be subject to drug testing, visits to a probation officer's  
25 office, and other limitations on your freedom.

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1           If you were to violate a condition of supervised  
2 release, you could be sentenced to an additional term of  
3 custody and an additional term of supervised release without  
4 credit for time previously served in custody or on supervised  
5 release.

6           Do you understand?

7           THE DEFENDANT: Yes, your Honor.

8           THE COURT: In addition, there is a \$100 special  
9 assessment, which is like a fine, except that must be imposed.  
10 That is mandatory.

11           Do you understand?

12           THE DEFENDANT: Yes, your Honor.

13           THE COURT: Your agreement with the government has a  
14 guideline estimate in it. Have you seen that and discussed  
15 that with your attorneys?

16           THE DEFENDANT: I have, your Honor.

17           THE COURT: I want to reiterate that is simply an  
18 estimate. That is not binding on the probation department; it  
19 is not binding on the Court.

20           Do you understand?

21           THE DEFENDANT: I am aware of that, your Honor.

22           THE COURT: Again, there is no promises as to what  
23 your sentence will be, nor is there a promise as to what your  
24 guideline range will be.

25           Do you understand?

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1                   THE DEFENDANT: Yes, sir.

2                   THE COURT: You have a statutory right to appeal.

3 There are time constraints on your ability to file a notice of  
4 appeal, and you should talk to your lawyer about that. If you  
5 cannot afford to hire an attorney to help you prosecute the  
6 appeal, the Court would give you a lawyer for free.

7                   Do you understand?

8                   THE DEFENDANT: Yes, sir.

9                   THE COURT: Although there is a statutory right to  
10 appeal, you have waived your right to appeal in certain  
11 circumstances under your agreement with the government.

12                  Do you understand?

13                  THE DEFENDANT: Yes, your Honor.

14                  THE COURT: You have also under your agreement waived  
15 any right to collaterally attack the conviction.

16                  Do you understand?

17                  THE DEFENDANT: Yes, sir.

18                  THE COURT: With certain limitations that are laid out  
19 in the agreement.

20                  Do you understand?

21                  THE DEFENDANT: Yes, sir.

22                  THE COURT: Do you have any questions for me,  
23 Mr. Cohen, before we continue?

24                  THE DEFENDANT: No, your Honor.

25                  THE COURT: Do you have any questions you would like

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1 to ask your attorneys in private before we continue?

2 THE DEFENDANT: No, your Honor.

3 THE COURT: Defense counsel, are you aware of any  
4 reason why your client should not plead guilty?

5 MR. PETRILLO: No, your Honor.

6 THE COURT: Are you aware of any legal defense to the  
7 charge?

8 MR. PETRILLO: Not that would prevail at trial.

9 THE COURT: Mr. Cohen, are you satisfied with your  
10 legal representation up to this point?

11 THE DEFENDANT: Yes, your Honor.

12 THE COURT: Mr. Cohen, are you willing to give up your  
13 rights to a trial and you all the other rights that we have  
14 discussed?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Other than what's contained in your  
17 agreement with the government, has anyone made any promises to  
18 induce you to give up those rights?

19 THE DEFENDANT: No, your Honor.

20 THE COURT: Has anyone made any threats to attempt to  
21 force you to give up those rights?

22 THE DEFENDANT: No, your Honor.

23 THE COURT: How do you plead to the sole count of the  
24 information --

25 THE DEFENDANT: Guilty, your Honor.

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1                   THE COURT: -- guilty or not guilty?

2                   THE DEFENDANT: Sorry.

3                   THE COURT: That's fine.

4                   Guilty?

5                   THE DEFENDANT: Yes, sir.

6                   THE COURT: OK. Tell me what it is that you did that  
7 makes you guilty of the sole count of the information.

8                   THE DEFENDANT: So if I may stand, your Honor, up for  
9 it?

10                  THE COURT: What's that?

11                  THE DEFENDANT: May I stand for you on this?

12                  THE COURT: You may. You don't need to. The  
13 acoustics aren't great. It may be easier if you sit and speak  
14 into the microphone.

15                  THE DEFENDANT: That is what I shall do.

16                  THE COURT: All right. Go ahead.

17                  THE DEFENDANT: Thank you.

18                  Prior to the 2016 presidential election, I had been  
19 the executive vice president and special counsel to Donald J.  
20 Trump at the Trump Organization, a Manhattan-based real estate  
21 business.

22                  By 2017 I was no longer employed in this capacity, but  
23 continued to serve on several matters as an attorney to the  
24 former CEO of the Trump Organization and now President of the  
25 United States, who is referred to as Individual 1 in the

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1 information.

2 As I had in the years before the election, I continued  
3 in 2017 to follow the day-to-day political messaging that both  
4 Individual 1 and his staff and advisers repeatedly broadcast,  
5 and I stayed in close contact with these advisers to Individual  
6 1. As such, I was aware of Individual 1's repeated disavowals  
7 of commercial and political ties between himself and Russia,  
8 his repeated statements that investigations of such ties were  
9 politically motivated and without evidence, and that any  
10 contact with Russian nationals by Individual 1's campaign or  
11 the Trump Organization had all terminated before the Iowa  
12 Caucus, which was on February 1 of 2016.

13 In 2017, I was scheduled to appear before the Senate  
14 Select Committee on Intelligence as well as the House Permanent  
15 Select Committee on Intelligence concerning matters under their  
16 investigation, including principally whether Russia was  
17 involved in or interfered in the 2016 campaign and election.

18 In connection with my appearances, I submitted a  
19 written statement to Congress, including, amongst other things,  
20 a description of a proposed real estate project in Moscow that  
21 I had worked on while I was employed by the Trump Organization.

22 That description was false -- I knew at the time -- in  
23 that I had asserted that all efforts concerning the project had  
24 ceased in January of 2016 when, in fact, they had continued  
25 through June of 2016;

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1           That I had very limited discussions with Individual 1  
2 and others in the company concerning the project, when in fact  
3 I had more extensive communications; and,

4           Lastly, that I had never agreed to travel to Russia in  
5 connection with the project and had never asked Individual 1 to  
6 travel, when in fact I took steps to and had discussions with  
7 Individual 1 about travel to Russia.

8           And I would like to note that I did not in fact travel  
9 there, nor have I ever been to Russia.

10          I made these misstatements to be consistent with  
11 Individual 1's political messaging and out of loyalty to  
12 Individual 1.

13          THE COURT: Any further allocution requested by the  
14 government?

15          MR. ATKINSON: Your Honor, as set forth in the  
16 information, Mr. Cohen submitted in his statement falsely that,  
17 upon reaching out to the Kremlin in January of 2016 about the  
18 Moscow Project, he had not received any response. In fact, he  
19 had received a response from the Kremlin and spoke to someone  
20 from the press secretary's office for approximately 20 minutes.  
21 So, in essence, that Mr. Cohen minimized his contacts with the  
22 Russian government and stated so falsely in his submission.

23          THE COURT: You want that as part of this allocution?

24          MR. ATKINSON: Yes, please.

25          THE COURT: Mr. Cohen, did you hear that?

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1 THE DEFENDANT: I did, your Honor.

2 THE COURT: Is that correct?

3 THE DEFENDANT: It is correct, your Honor. There was  
4 one contact that I had had for the 20 minutes, as stated.

5 THE COURT: Any further allocution requested by the  
6 government?

7 MR. ATKINSON: No, your Honor. Thank you.

8 THE COURT: Any further allocution requested by the  
9 defendants?

10 MR. PETRILLO: No, your Honor.

11 THE COURT: Is there anything else that has been left  
12 out that we need to deal with?

13 MR. ATKINSON: No, your Honor.

14 THE COURT: We'll get to the next steps in a second.

15 MR. PETRILLO: OK.

16 THE COURT: I find that Mr. Cohen is competent to  
17 proceed. I find that he understands the rights that he's  
18 waiving by pleading guilty. I further find that there is a  
19 factual basis for the plea, and I accept his plea of guilty.

20 Now let's talk about sentencing date and what the  
21 parties' position is. I know that Judge Pauley has this  
22 defendant on another matter.

23 Let me hear from counsel.

24 MR. PETRILLO: Absolutely, your Honor.

25 There is another matter, 18 Cr. 602, before Judge

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1 Pauley, and in that matter sentencing is scheduled for December  
2 12. As far as I know, that sentencing date will go forward.

3 In light of, as memorialized on page 4 of the plea  
4 agreement, the commitment of the Special Counsel's office to  
5 bring to the sentencing court's attention the cooperation of  
6 Mr. Cohen to date, as described in the agreement, it would be  
7 our intention, with the Court's permission, to submit a letter  
8 to your Honor and to Judge Pauley under the local rules so as  
9 to consolidate the sentencing of Mr. Cohen both on the matter  
10 that your Honor has covered today and taken the plea on and on  
11 the matter that is before Judge Pauley.

12 If the Court is amenable to that, that would allow the  
13 sentencing to take place on December 12. We would submit that  
14 letter later today.

15 Thank you.

16 THE COURT: OK. Government?

17 MR. ATKINSON: No objection from the government, your  
18 Honor. We would be able to meet the December 12 deadline as  
19 well. We would submit all the paperwork next week in order to  
20 expedite the sentencing.

21 THE COURT: All right. That's fine.

22 Let's do this. I'm not going to set a sentencing date  
23 then now. Counsel should submit this letter today.

24 We will see what Judge Pauley's view is on that. It  
25 is certainly fine with me. It makes sense for this to be in

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1 front of one judge, and Judge Pauley has the older case. That  
2 would seem to make sense, but we'll see.

3 So submit that letter. I won't set a sentencing date.  
4 It does seem that if there is a possibility and a desire for  
5 both sides that this case be consolidated with the other case  
6 and that the sentence for both of these cases take place on  
7 December 12, I suppose I need to order an expedited presentence  
8 report.

9 I will do that unless the parties have some other  
10 position on that.

11 MR. ATKINSON: Yes, your Honor. We're fine with that.  
12 Just formally I think the case would just be transferred and  
13 not consolidated.

14 THE COURT: OK. That's fine. The case will be  
15 transferred, it won't be consolidated, but I think I still need  
16 to order on expedited presentence report.

17 MR. ATKINSON: Yes, your Honor.

18 THE COURT: There may not be a need for a full-blown  
19 presentence report, but whatever is going to be done, it needs  
20 to be done expeditiously.

21 MR. ATKINSON: That's correct, your Honor.

22 THE COURT: I will order an expedited presentence  
23 report.

24 What is the parties' position on bail?

25 MR. ATKINSON: Your Honor, in the case before Judge

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1 Pauley, there was a bail package that was agreed to. We would  
2 not oppose the same bail package being applied in this case. I  
3 do have the conditions if you would like me to read them for  
4 the record.

5 THE COURT: That's fine.

6 I assume the defense doesn't object to that?

7 MR. PETRILLO: We do not, your Honor, although it  
8 might just be easier from a processing point of view to have --

9 THE COURT: I am thinking, instead of doing that, it  
10 may be easier, if there's no added conditions, just to  
11 release him on his own recognizance.

12 MR. ATKINSON: We are fine with an ROR, your Honor.

13 THE COURT: I will order Mr. Cohen released on his own  
14 recognizance.

15 Anything else today from the government?

16 MR. ATKINSON: No, your Honor. Thank you.

17 THE COURT: Anything else from the defense?

18 MR. PETRILLO: No, your Honor. Thank you.

19 THE COURT: All right. We are adjourned.

20 Thanks.

21 THE DEFENDANT: Thank you, your Honor.

22 (Adjourned)